

## Office of the Secretary of Defense

## § 158.5

### § 158.2 Applicability and scope.

(a) This part applies to the Office of the Secretary of Defense (OSD) and to activities assigned to the OSD for administrative support, the Military Departments, the Organization of the Joint Chiefs of Staff, the Unified and Specified Commands, and the Defense Agencies (hereafter referred to collectively as “DoD Components”).

(b) This part applies to the systematic review of permanently valuable classified information, developed by or for the Department of Defense and its Components, or its predecessor components and activities, that is under the exclusive or final original classification jurisdiction of the Department of Defense.

(c) Its provisions do not cover Restricted Data or Formerly Restricted Data under the Atomic Energy Act of 1954 or information in nonpermanent records.

(d) Systematic declassification review of records pertaining to intelligence activities (including special activities) or intelligence sources or methods shall be in accordance with special procedures issued by the Director of Central Intelligence.

### § 158.3 Definitions.

(a) *Cryptologic information.* Information pertaining to or resulting from the activities and operations involved in the production of signals intelligence (SIGINT) or to the maintenance of communications security (COMSEC).

(b) *Foreign government information.* Information that is provided to the United States by a foreign government or governments, an international organization of governments, or any element thereof with the expectation, expressed or implied, that the information, the source of the information, or both are to be held in confidence; or produced by the United States pursuant to or as a result of a joint arrangement with a foreign government or governments, an international organization of governments, or any element thereof requiring that the information, the arrangement, or both are to be held in confidence.

(c) *Intelligence method.* Any process, mode of analysis, means of gathering

data, or processing system or equipment used to produce intelligence.

(d) *Intelligence source.* A person or technical means that provides intelligence.

### § 158.4 Policy.

It is the policy of the Department of Defense to assure that information that warrants protection against unauthorized disclosure is properly classified and safeguarded as well as to facilitate the flow of unclassified information about DoD operations to the public.

### § 158.5 Procedures.

(a) DoD classified information that is permanently valuable, as defined by 44 U.S.C. 2103, that has been accessioned into the National Archives of the United States, will be reviewed systematically for declassification by the Archivist of the United States, with the assistance of the DoD personnel designated for that purpose, as it becomes 30 years old; however, file series concerning intelligence activities (including special activities) created after 1945, intelligence sources or methods created after 1945, and cryptology records created after 1945 will be reviewed as they become 50 years old.

(b) All other DoD classified information and foreign government information that is permanently valuable and in the possession or control of DoD Components, including that held in Federal records centers or other storage areas, may be reviewed systematically for declassification by the DoD Component exercising control of such information.

(c) DoD classified information and foreign government information in the possession or control of DoD Components shall be declassified when they become 30 years old, or 50 years old in the case of DoD intelligence activities (including special activities) created after 1945, intelligence sources or methods created after 1945, or cryptology created after 1945, if they are not within one of the categories specified in §§ 158.7 through 158.10 or in 48 FR 4403, January 31, 1983.

(d) Systematic review for declassification shall be in accordance with procedures contained in DoD 5200 1-R.

## § 158.6

Information that falls within any of the categories in §§158.7 through 158.10 and in 44 FR 4403 shall be declassified if the designated DoD reviewer determines, in light of the declassification considerations contained in §158.11 that classification no longer is required. In the absence of such a declassification determination, the classification of the information shall continue as long as required by national security considerations.

(e) Before any declassification or downgrading action, DoD information under review should be coordinated with the Department of State on subjects cited in §158.12, and with the Central Intelligence Agency (CIA) on subjects cited in §158.13.

### § 158.6 Responsibilities.

(a) The *Deputy Under Secretary of Defense for Policy* shall:

(1) Exercise oversight and policy supervision over the implementation of this part.

(2) Request DoD Components to review §§158.7 through 158.11 of this part every 5 years.

(3) Revise §§158.7 through 158.11 to ensure they meet DoD needs.

(4) Authorize, when appropriate, other Federal agencies to apply this part to DoD information in their possession.

(b) The *Head of each DoD Component* shall:

(1) Recommend changes to §§158.7 through 158.13 of this part.

(2) Propose, with respect to specific programs, projects, and systems under his or her classification jurisdiction, supplements to §§158.7 through 158.11 of this part.

(3) Provide advice and designate experienced personnel to provide timely assistance to the Archivist of the United States in the systematic review of records under this part.

(c) The *Director, National Security Agency/Chief, Central Security Service (NSA/CSS)*, shall develop, for approval by the Secretary of Defense, special procedures for systematic review and declassification of classified cryptologic information.

(d) The *Archivist of the United States* is authorized to apply this part when reviewing DoD classified information

that has been accessioned into the Archives of the United States.

### § 158.7 Categories of information that require review before declassification.

The following categories of information shall be reviewed systematically for declassification by designated DoD review in accordance with this part:

(a) Nuclear propulsion information.

(b) Information concerning the establishment, operation, and support of the U.S. Atomic Energy Detection System.

(c) Information concerning the safeguarding of nuclear materials or facilities.

(d) Information that could affect the conduct of current or future U.S. foreign relations. (Also see §158.12.)

(e) Information that could affect the current or future military usefulness of policies, programs, weapon systems, operations, or plans when such information would reveal courses of action, concepts, tactics, or techniques that are used in current operations plans.

(f) Research, development, test, and evaluation (RDT&E) of chemical and biological weapons and defensive systems; specific identification of chemical and biological agents and munitions; chemical and biological warfare plans; and U.S. vulnerability to chemical or biological warfare attack.

(g) Information about capabilities, installations, exercises, research, development, testing and evaluation, plans, operations, procedures, techniques, organization, training, sensitive liaison and relationships, and equipment concerning psychological operations; escape, evasion, rescue and recovery, insertion, and infiltration and exfiltration; cover and support; deception; unconventional warfare and special operations; and the personnel assigned to or engaged in these activities.

(h) Information that reveals sources or methods of intelligence or counterintelligence, counterintelligence activities, special activities, identities of clandestine human agents, methods of special operations, analytical techniques for the interpretation of intelligence data, and foreign intelligence reporting. This includes information